

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

In re:

Case No. 05-07141-9P7
Chapter 7

CONSTANTINE PETER STEVENSON

Debtor, _____/

ORDER ON MOTION TO EXAMINE
ATTORNEYS' FEES
(DOC. NO. 24)

THIS CAUSE came on for consideration upon a Motion to Examine Attorneys' Fees filed by Diane L. Jensen, Chapter 7 Trustee (the Trustee) on June 28, 2005, in the above-captioned Chapter 7 case. In her Motion, the Trustee contends that: (1) the Debtor retained Chad P. Pugatch of the law firm of Rice Pugatch Robinson & Schiller, P.A., to represent him as his Attorney (the Attorney) in his Chapter 7 Bankruptcy case; (2) Notwithstanding the original disclosure indicating that the Debtor paid the Attorney the sum of \$5,000.00, the Debtor's and Attorney's testimony at the continued 341 Meeting indicated that \$13,000.00 was paid to the Attorney as compensation for handling the Bankruptcy case; (3) the Attorney indicated at the continued 341 Meeting that a substantial portion of the retainer was paid for what he anticipated as future litigation as opposed to the services in the initial filing. Accordingly a substantial portion of the \$13,000.00 was unearned at the time of the filing of the Bankruptcy Petition.

In her Motion, the Trustee also requested that this Court examine the attorneys' fees paid to the Debtor's attorney pursuant to 11 U.S.C. §329 and that the Court order any excess compensation to be paid to the Bankruptcy estate.

On June 30, 2005, the Attorney filed an Amended Disclosure of Compensation of Attorney for Debtor (Doc. No. 26) indicating that he had received \$13,000.00 from the Debtor in return for the services listed below:

- (a) Analysis of the Debtor's financial situation, and rendering advice to the Debtor in determining whether to file a petition in bankruptcy.

- (b) Preparation and filing of any petition, schedules, statement of affairs, and plan which may be required.
- (c) Representation of the Debtor at the meeting of creditors and confirmation hearing, and any adjourned hearings thereof;
- (d) Representation in all 2004 Examinations, contested matters and/or adversary proceedings.

The Amended Disclosure of Compensation further states that "By agreement with the Debtor(s) the above disclosed fee does not include the following services: Additional services exceeding retainer to be billed hourly."

At the hearing held on August 4, 2005, this Court considered the Motion, and the record and after hearing argument of counsel, announced that he would defer ruling on this matter pending receipt of detailed statement of time spent and rate of compensation charged by the Attorney for the Debtor in the Chapter 7 case in order to determine the reasonableness of the compensation paid. To date, the Attorney for the Debtor has yet to file such detailed statement.

Accordingly, it is

ORDERED, ADJUDGED AND DECREED that the Attorney for the Debtor is hereby required to file a detailed statement of time spent and rate of compensation charged to the Debtor in connection with this Chapter 7 case, within 15 days of the date of this Order. It is further

ORDERED, ADJUDGED AND DECREED that if the Attorney for the Debtor fails to file the detailed statement outlined above, this Court will make an independent determination as to the amount of a reasonable fee based on the record before the Court.

DONE AND ORDERED at Tampa, Florida, on 10-31-05.

/s/ Alexander L. Paskay
ALEXANDER L. PASKAY
U.S. Bankruptcy Judge